

# Board of Education Agenda Item

Item: \_\_\_\_\_ C. \_\_\_\_\_

Date: \_\_\_\_\_ May 25, 2005 \_\_\_\_\_

**Topic:** First Review of Request to the U.S. Department of Education for Additional Flexibility in the Inclusion of the Performance of Students with Disabilities in the Calculation of Adequate Yearly Progress

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## Origin:

\_\_\_\_\_ Topic presented for information only (no board action required)

☒ Board review required by  
☒ State or federal law or regulation  
\_\_\_\_\_ Board of Education regulation  
\_\_\_\_\_ Other: \_\_\_\_\_

☒ Action requested at this meeting \_\_\_\_\_ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

☒ No previous board review/action  
\_\_\_\_\_ Previous review/action  
date \_\_\_\_\_  
action \_\_\_\_\_

## Background Information:

On April 7, Secretary of Education Margaret Spellings announced plans to increase flexibility with regard to the inclusion of students with disabilities in calculating adequate yearly progress (AYP). On May 10, in a letter sent to all states, Secretary Spellings provided additional information regarding this flexibility. In the letter she noted that “in addition to students with the most significant cognitive disabilities, research now indicates that there is another group of students with disabilities who can make significant progress but may not reach grade-level achievement standards within the same time frame as other students. This research shows that, even after receiving the best-designed instructional interventions from highly trained instructors, a group of students with academic disabilities, comprising approximately two percent of the school-age population, is not able to achieve at grade level. They are able to make significant progress toward grade-level standards when provided high-quality instructional interventions and measured with appropriate assessment instruments.”

Secretary Spelling's letter informed states that the United States Department of Education (USED) "intends to issue a notice of proposed rulemaking in the near future that would permit States: (a) to develop modified achievement standards for a limited group of students with disabilities, as defined in the Individuals with Disabilities Education Act, (b) to develop alternate assessments (based on those modified achievement standards) that are aligned with grade-level content standards, and (c) to include proficient scores from these assessments (subject to a 2.0 percent cap at the district and State level) in determining AYP. The goal of these regulations would be to ensure that States hold those students to challenging, though modified, achievement standards that enable them to approach, and even meet, grade-level standards; ensure these students access to the general curriculum; measure their progress with high-quality alternate assessments; provide guidance and training to Individualized Education Program teams to identify these students properly; and provide professional development to regular and special education teachers regarding successful interventions."

Because the regulations will not be prepared in time to impact the current school year, the USED has proposed an interim policy that will allow states to calculate a proxy to determine the percentage of special education students that is equivalent to two percent of all students assessed. The proxy is calculated by dividing 2.0 by the percentage of students who have been identified as having a disability. The proxy will be added to the pass rate of the students with disabilities subgroup only when calculating AYP for the 2005-2006 year based on data from 2004-2005. This provision applies only to AYP ratings for the 2005-2006 school year and is limited to schools and divisions that fail to make AYP solely due to the performance of students with disabilities. Schools and divisions that fail to meet AYP based on the performance of other subgroups or participation rates will not be eligible for this flexibility.

In order to be eligible to take advantage of this interim policy, states must meet the following criteria:

- Statewide assessment participation rates for students with disabilities, for purposes of measuring AYP, must be at or above 95%;
- Alternate assessments in reading/language arts and mathematics must be available for students with disabilities who are unable to participate in the regular assessment even with accommodations, and (as required by IDEA) States must report results to the Secretary and the public based on these alternate assessments in reading/language arts and mathematics. States with IDEA Special Conditions may not be eligible if such conditions cannot be resolved by July 1, 2005;
- Appropriate accommodations are available for students with disabilities; and
- A State seeking to use this interim policy must explain how students with disabilities are included in its accountability system. Specifically, a State's subgroup size for students with disabilities must be equal to that of the overall group size.

States that meet the above criteria may submit a worksheet to USED requesting authorization to apply the proxy to the 2005-2006 AYP calculation. The worksheet is to be submitted by June 1, 2005. A copy of the AYP Addendum Worksheet is attached.

Once the federal regulations governing this new policy are finalized, states who are approved to take advantage of the interim flexibility will be required to develop modified achievement standards for this population following the criteria listed below.

- The State must commit to have in place no later than 2006-07 reliable and valid alternate assessments based on modified achievement standards for a limited group of students with disabilities. Please note that, under both IDEA and NCLB, students with disabilities may not be

exempted from State assessments, even while assessments based on modified achievement standards are being developed.

- The State must commit to ensuring that it provides a wide variety of appropriate accommodations that improve the validity of assessment results for students with disabilities.
- A State that has developed alternate achievement standards for students with the most significant cognitive disabilities must provide assurance that those standards are aligned with the State's content standards, promote access to the general curriculum, and reflect professional judgment on the highest achievement standards possible, as required by 34 CFR §200.1(d).
- The State must provide information and a time line with regard to how the State will work over the next two years to develop and ensure effective implementation of its alternate assessments.

### **Summary of Major Elements:**

Virginia meets the criteria required to take advantage of the interim policy as noted in the background section. Much of the information needed for the worksheet is already on file at USED through various reports. Additional information may be submitted if necessary.

The USED will review the information submitted to determine if Virginia is eligible for the interim AYP flexibility. If determined eligible, the Department of Education will develop modified achievement standards for applicable students with disabilities, based upon final regulations.

### **Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education waive first review and authorize the Department of Education to submit the worksheet and seek authorization to apply the proxy to the calculation of AYP for 2005-2006 and, if determined eligible by the USED, to develop modified achievement standards in accordance with federal requirements.

### **Impact on Resources:**

Application of the interim flexibility will have minimal impact on resources. Development of modified achievement standards will require undetermined resources.

### **Timetable for Further Review/Action:**

An update on Virginia's request to exercise the interim flexibility will become part of the Department's monthly report to the Board of Education on No Child Left Behind issues.

## **AYP ADDENDUM WORKSHEET**

For most data elements in Sections I and II, the Department has the necessary data and a State does not need to resubmit them. If a State wants to submit any updated or explanatory information, send it to the Department by email at [AYPAmendments@ed.gov](mailto:AYPAmendments@ed.gov) by June 1, 2005.

### **I. Core Principles**

The Department has most of the following information available through the 2003-04 State Consolidated Performance Reports, Part I; Office of Special Education Programs (OSEP) monitoring findings related to alternate assessments; and State accountability workbooks and supporting evidence. States should submit information regarding the availability of appropriate accommodations since the Department would only have information about accommodations (item 4) if it is posted on a State's website.

1. Participation rates for students with disabilities
2. Availability of alternate assessments
3. Reporting of results from alternate assessments
4. Availability of appropriate accommodations for students with disabilities
5. Minimum group sizes for making AYP decisions

### **II. Student Achievement**

The Department has this information available through the 2002-03 and 2003-04 State Consolidated Performance Reports, Part I.

6. Student achievement in reading, for students with disabilities, 2002-03 school year
7. Student achievement in mathematics, for students with disabilities, 2002-03 school year
8. Student achievement in reading, for students with disabilities, 2003-04 school year
9. Student achievement in mathematics, for students with disabilities, 2003-04 school year

### **III. Sound State Education Policies**

A State should submit the information for Section III by email at [AYPAmendments@ed.gov](mailto:AYPAmendments@ed.gov); the ideal deadline for submitting information in Section III is June 15, 2005. States needing assistance with Section III should contact the Department; we will work with States to provide the required information. Please describe how the State intends to take these steps and provide estimated time lines for when these requirements will be completed.

10. Document the technical quality of the alternate assessments for students with the most significant cognitive disabilities, if not previously completed.
11. Develop criteria and guidance for IEP teams regarding identification of students with the most significant cognitive disabilities and for setting appropriate proficiency expectations for those students.
12. Demonstrate that policies are in place to ensure inclusion of all students in the assessment system, as required by IDEA and NCLB.

13. Provide training to IEP teams on State assessment guidelines and policies, as required under IDEA and NCLB regulations.
14. Train teachers on instructional interventions, including special education teachers and general education teachers with subject matter expertise, on how to work together, provide access to the general curriculum, and use data to improve student achievement.
15. Conduct outreach to parents of students with disabilities to explain State testing policies. This outreach may take several forms, such as website documents; brochures for parent centers, schools, and districts; or training for parent liaisons.
16. Incorporate appropriately the scores of students with the most significant cognitive disabilities into the State reporting and accountability system.
17. Submit all alternate assessments for the Department's peer review process for standards and assessments.

In addition to the above steps, States should also commit to the following steps as part of the overall strategy to improve assessments for students with disabilities, in particular for the development of alternate assessments based on modified achievement standards. Please provide an assurance that the State will complete these steps.

- Develop and formally approve or adopt modified academic achievement descriptors.
- Build a framework, including purpose and scope of alternate assessments based on modified achievement standards, that addresses key questions and issues (e.g., portfolio or multiple choice) and is informed by stakeholder and technical advisory committee input.
- Contract for the development of valid alternate assessments based on modified achievement standards for students with disabilities who need to take a modified assessment (as well as students with the most significant cognitive disabilities, if applicable).
- Establish (with diverse stakeholder involvement) and formally approve or adopt modified achievement standards with "cut scores" that differentiate among achievement levels and are aligned with State content standards.
- Document the technical quality of the alternate assessments based on modified achievement standards.
- Demonstrate that policies are in place to ensure inclusion of all students in the assessment system, as required by IDEA and NCLB.